

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

TRAXCELL TECHNOLOGIES, LLC., )  
Plaintiff, )  
v. ) Civil Action No. 2:17-cv-00042  
HUAWEI TECHNOLOGIES USA INC., ) JURY TRIAL DEMANDED  
Defendant. )

**UNOPPOSED MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15, Plaintiff requests leave to file its First Amended Complaint adding claims of infringement for U.S. Pat. No. 9,642,024 (“the ‘024 patent”). Defendant is not opposed to this motion.

**I. PLAINTIFF REQUESTS LEAVE TO AMEND.**

On May 2, 2017, the ‘024 patent issued to Plaintiff Traxcell Technologies, LLC (“Traxcell”). In the interests of justice and judicial economy, Traxcell seeks to add its claims of infringement for the ‘024 patent to the present lawsuit rather than file a new lawsuit.

**II. LEAVE TO FILE SHOULD BE FREELY GIVEN WHEN JUSTICE SO REQUIRES.**

Fed. R. Civ. P. 15(a)(2) provides, “The court should freely give leave when justice so requires.” Because Rule 15 “evinces a bias in favor of granting leave to amend,” a district court’s discretion “is not broad enough to permit denial,” except where a “substantial reason” for denial exists, such as undue delay, bad faith, dilatory motive, repeated failures to cure deficiencies, or undue prejudice to the opposing party.”<sup>1</sup> Likewise, there is no prejudice because Huawei is

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<sup>1</sup> *Mayeaux v. La. Health Serv. & Indem. Co.*, 376 F.3d 420, 425 (5th Cir. 2004); *see also Foman v. Davis*, 371 U.S. 178, 182 (1962); *Lyn-Lea Travel Corp. v. Am. Airlines, Inc.*, 283 F.3d 282, 286 (5th Cir. 2002); *Rosenzweig v. Azurix Corp.*, 332 F.3d 854, 864 (5th Cir. 2003).

unopposed to the filing of the First Amended Complaint.

**III. LEAVE TO AMEND SHOULD BE GRANTED BECAUSE THE AMENDMENT  
WOULD SERVE JUSTICE AND WOULD NOT UNDULY PREJUDICE  
DEFENDANTS.**

Pursuant to the discussion above regarding agreement of counsel, by granting leave to file the First Amended Complaint, justice would be served and Defendant would not be unduly prejudiced.

**IV. CONCLUSION**

Plaintiff requests leave to file the attached First Amended Complaint.

Respectfully submitted,

**Ramey & Schwaller, LLP**

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**Attorneys for Traxcell**

**CERTIFICATE OF CONFERENCE**

I certify that counsel for Defendants was conferred with regarding this motion and Defendants' counsel are not opposed.

/s/ William P. Ramey, III

**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that all counsel of record who have appeared in this case are being served on this day of May 2, 2017 with a copy of the foregoing via the Court's CM/ECF system.

/s/ William P. Ramey, III  
William P. Ramey, III